

**REMARKS**

**Claim Rejections**

Claims 1 and 15-22 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,701,046 to Pianciola *et al.* (“Pianciola”) in view of U.S. Pat. Pub. No. 2002/0136508) to Donno *et al.* (“Donno”). Applicants traverse this rejection.

The combination of Pianciola and Donno does not disclose or suggest at least a plurality of optical fibers including a  $\lambda_1$ -band optical fiber and a  $\lambda_2$ -band optical fiber, fused together at a fusion-elongated portion, wherein optical fibers in the plurality of optical fibers are designed such that when the optical fibers are fusion-elongated at an elongating ratio in a range of 50% or less, the optical fibers have a propagation constant difference therebetween of  $1 \times 10^{-4}$  rad/ $\mu\text{m}$  or smaller, as recited in claim 1.

The Examiner concedes that Pianciola does not disclose or suggest that when the optical fibers are fusion-elongated at an elongating ratio in a range of 50% or less, the optical fibers have a propagation constant difference therebetween of  $1 \times 10^{-4}$  rad/ $\mu\text{m}$  or smaller. Donno does not cure the deficiencies of Pianciola.

The Examiner alleges that Donno discloses a splice between two optical fibers having Applicants’ claimed propagation constant difference at Applicants’ claimed elongation ratios, and further alleges that there is no indication in the prior art that the propagation constants would increase over the claimed threshold due to different elongation ratios. Donno, however, does not disclose the propagation constants differences in relation to an elongation ratio, as set forth in the claim. Applicants respectfully submit that the lack of an indication in the cited references that the propagation constants would increase over the claimed threshold does not establish a *prima*

*facie* case that the propagation constant differences resulting from Donno's method are consistent with those claimed by Applicants at the specified elongation ratios.

Therefore, the combination of Pianciola and Donno fails to disclose or suggest wherein optical fibers in the plurality of optical fibers are designed such that when the optical fibers are fusion-elongated at an elongating ratio in a range of 50% or less, the optical fibers have a propagation constant difference therebetween of  $1 \times 10^{-4}$  rad/ $\mu\text{m}$  or smaller, as recited in the claim. Even if one of ordinary skill in the art at the time the invention was made had been motivated to combine the references, the combination would not result in the claimed features.

For at least the above reasons, claim 1 is patentable over the combination of Pianciola and Donno. Claims 15-22, which depend from claim 1, are patentable at least by virtue of their dependency.

### **Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Amendment under 37 C.F.R. § 1.114(c)  
U.S. Appl. No. 10/760,374

Atty. Docket No. 78752

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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